மதுரை

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30037

106

Record Register of papers for 1839
Received Letter file

8907
30037

Date	No.	From whom received	Substance
[illegible] 40	1079/1839	Resident of Travancore	Forwarding a letter of the Dewan to the effect that a peon attached to the cutchery at Ramnad has unlawfully interfered in the Oottoopurai and on refusal to deliver certain accounts, arrested and maltreated certain persons, ~~It is further~~ reporting that some lands of the Travancore government have been encroached upon, & requesting to take necessary steps.
		[illegible] Madurai.	Forwarding an extract from the proceedings of the Court of Audalat of Zillah Madura under date 11th November 1839 regarding the border dispute between the Zemindars of Ramnad & Ettiapuram

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட [illegible] மாதம் 1984 வருடம்,
செப்பனிட்டு முடித்த [illegible] மாதம் 1984 வருடம்
ஆராய்ச்சி உதவியாளர் கையொப்பம் [illegible]

8907
30037

No. 179.
1839

R

To,
Captain A. Douglas
Acting Resident of
Travancore
&c. &c. &c.

Sir,

1. I have the honor to transmit herewith for your information, copy of a report received by me from the Ramachor or Manager of the Pagoda in the Village of Ramkoor in Ramnad, under date the 1st Purtassie 1015 / 15th Septr. 1839: in which he states, that a Peon attached to the Cutchery at Ramnad, of the Principal Collector of Madura, by name Ramaswamy had proceeded to the Oottoperah or house where Brahmins are fed on account of the Travancore Government, and demanded in the name of the local Authorities

of

of Ramnad, the Accounts connected
with the said Pagoda for five
years, viz. from Fusly 1243 to
47 — but which being quite an un-
usual measure, the Sircar Servants
in charge of those Accounts, refused
compliance; whereupon the said
Peon maltreated several of them,
and afterwards siezed and took
with him the Mundaw Pilly
or Accountant attached to the Pa-
goda, to the Principal Collector's
Cutchery, at Ramnad, where he
was placed in confinement.

2. The Manager further
reports, that a portion of land
belonging to the Travancore Go-
vernment and situated in proxi-
mity to the Ruthoor Tank, has
been, and a still further space
is being encroached upon by the
raising and repairing of the
banks of the said Tank, and
which would subject the Sircar
to considerable loss.

5

3 I beg leave to submit the abovementioned circumstances for your consideration, and adoption of such measures as you may deem they require.

Huzzoor Cutcherry
Trevandrum
4th Octr. 1837

I have &ca.
Sigd. Soobrow
Dewan.

Recd 12th /37

(A true Copy)

J. Dougla[illegible]
Acting Resident.

மகாராஜ மானனிய ராஜஸ்ரீ திவான்ஜி சாயபு

அவர்கள் சமுகத்திலே

[illegible]

உளஜி காாஇலலகட மபாயுளுதிக டாஜெயணடளவகபுஇசெ
யுலகளகுமுகமயுஇச இலமவறொயுகச லகிளமதிலஜொ
களிசலவளமபுதலஉளமகசுயஜிளமகுமாஜிவிச கிகுளம
இயா1களமவுளளகுளதுளவாயிலபதிஉகாககடாஉள இகாஇ
திஉபவிச சவஇஜபுஇச இலலயஜிலவிளவுளளலமயகஉளளமு
ஜகயுச்ச தமவஇஜஉமப்ய யமதாதிஜஉகஇஉளபபய
புஇச் முதலாயஜிலம வழிஇதுஉகாவிலகிஉஜஇச மபுதயூா
மரா1ரஜதசெஇவஉஉஷமவகுகுமஜஇவிச கிஇபயா1கா.மதஇச
குள்புாவிஉல கீயாஉமதுவிதிஉகாயுவெயுகள ஜாஜிஜிதி ல
ஜகுஜகயுமவெளளகா ஜெதம்யுள் யாஜிஜிஜிபு
ாயளதுபஜிபபஜ சஜிபிஉஇஉமஜளஜிதுபாமககசெஜய
யுமமகாளச மாஜஜியாச ஸ்ரீமஉஜக்லகய 1புாஜவ1கள
லமகிமஉமுளமஙிலலலகட மவச சலபாதிபமச சமதுஉல
ஜிச சகைளகாஜதுஜிஜொஜய இராலபலக துளமபஉகுழ
கமபுஇச இலமபுஜியலகு முஜஇகாஜஇகாகக1குளஉ
உளவாயிலலா1காளவகஜுதிகிலஉயுகவிச சஜஇகுயு ம
தவஜுஉபமச சவஇஜஇயமதஉஜஇலமுகாஜதுமஜா1காளவக
உதிஜொகதுளதி1புபஜ யதிஜஇஜஇயமஜஇபொஜ
வச ஜிச சதஇஜிஉமகாச மாஜஜியாச ஸ்ரீமஉஜககலக
ய 1லாயிபப திபு1களாளடகிஜமதிஜயுஜஜஇமெலஇதி
ஜ ஜிஜிஇஜஜ பபமஇாயவமலா1காளவகஜுஇஇமுலா ய
களஜிமவஇதிஉபொகமுலாயதிய வமாச ஜளஜெயிக
ஜ பமச சதஇஜதக ஜதுஸா1காளவக திஜொகஜுள
மாவிலவாஉபாயளமுபயயபொகளக்கக ாகிஜமதி ல
இபபொளக க வஉகு முயாஜவ ஜமாதமபலகா1ஜ
முகர்தஜகாவலகா1ஜமுலாயபொஜஜபலகய மவிகளதுலகஇம
க் யகுவமுயச இதுலகஇ மவாயிச். சஉ ஜஜியமமுபா யுஉவா
பமச சவஇஜஇஉவாலஸிதி1மதா1மமவுகஜ புகஜ்ஸழிசச
வஜிஜஇஜதிஇலகுவி ஜஜதலகஜஇலாஜதிா1மமதி ஜழிவாஜி
ச இஜஇஜபய யதிஜவி1காமதஉபவச சவகிஜமமுஜஜு
இபபொஜ்ஸா1காளவகவெஜிச சயாஜதஇவிஜஜதமஇலாஜஇஜ
தி ஜிஜிமதிலபஜ ஜவகவெஜிச சஉ1தவ1கஜஸமஜி

[illegible]

(True Copy)

Soobrow
Dewan

Copy of this given to Vakeel of the Ettiapooram Zemindar on his application on the 16 May 1860

R. 11

To the Principal Collector of

Madura

Sir,

Para 1 ... I have the honor to acknowledge the receipt of your letter of the 14th Instant request-ing to be informed of the object & result of my requisition of the 2d of August last for all the correspondence which had taken place between the Collector of Tinnevelly and your Cutchery touching the border dispute between the Zemin-dars of Ramnadhapoorum and Ettiapoorum

2 ... My object was information respect-ing the proceedings relative to the said long standing boundary dispute, but particularly those relative to the conduct of the Ettiapooreans who with their Zemindar seem to have been considered the aiders and abettors if not principals in all the riot & crime committed on or near the disputed ground to which the said correspondence refers, whilst other

documents

documents prove that they were even less so than the people of Ramnad.

3 .... After a careful perusal of all that has transpired in the matter I have the satisfaction in being able to declare that I do not apprehend the least likelihood of any breach of the peace consequent upon my proceedings of the 11.th Instant but as your letter under reply does not state the party who are likely to show any symptoms of refractory conduct I will endeavour to point out that it cannot be really or justly feared on the part of the Ettiapoorams.

4 .... The Board of Revenue in the 6th Para of their letter of the 9.th of June 1834 to your address denounce the conduct of the Zemindar of Ramnad in the following terms "It will be proper to intimate to the Ram-"nad Zemindar the Boards conviction that "the Outrages which have been committed "could not have taken place without his "privity and sanction and that his persist-"ing in such a course may perhaps be "attended with consequences which he may have "great cause to regret."

5 ..... In the 4th Para of the same letter no absolute necessity even then was declared to exist for any extra Sibbandy for the maintenance of the peace but merely "to place as strong a "body of peons as you can conveniently spare "in the vicinity of the disputed land and the "same measure should be adopted by the "Collector of Tinnevelly" And then too the land was to be immediately taken from either party in possession, which party if those la were not already sequestered must have been the Zemindar of Elliapoorum, and kept under immediate Cirkar management.

6 ..... In the 5th Para of the Decree itself dated 23d August 1834 Both parties are considered as equally culpable and subsequen -ly in Paras 14 & 15 an eulogium is passed on the Elliapoorum Zemindar on whose assistance the Principal Collector felt "assured he might "rely in keeping down the lawless passions "of the ignorant cultivators".

7 ..... In No. 1 of the Madura Calendar 2d Sessions of 1836 respecting the affray at -tended with fatal consequences to 3 or 4 individuals & which occurred on or about

the

the 23rd October 1835 the Ettiapooreans were prosecutors and although by their Futwa, the Fouzdary Adawlut were pleased to order the release of the prisoners, such was not intended as any proof that the Ettiapooreans committed the murder.

8 — — The Arzy conjointly presented on the 24th December 1832 to the Principal Collector of Madura by a Jawabnavis from his Cutchery and a Gomastah from Tinnevelly states that the Villagers belonging to both parties were constantly assembling and committing outrages. In your letter to the Collector of Tinnevelly robbery and murder appear to have been charged against they of Ramnad whilst robbery alone is charged against the people of Ettiapoorum, so that in no way that I am able to discover has a more turbulent spirit been evinced, or more violence exhibited by the Ettiapooreans than by the opposite party, on the contrary up to the date of the award passed in 1834 the former were in possession, and after the said award as shown above were prosecutors in a case of murder

committed

2

15

committed on their own people, since which they have been entirely ousted from what they had at the very least been in possession of 15 years and their petition to this Court against the ouster been twice dismissed without a hearing, yet no breach of the peace appears to have happened, and it is most unlikely that any should happen now on the part of the Ettiapooreans. Therefore it is not too much to assume that if the peace and quiet of the border be really in danger it must be by conduct on the part of the people of Ramnad.

But further to show that I am not singular in this supposition and declaration The Acting Collector & Magistrate of Tinnevelly in the 3d Para of his letter to your address of the 9th of April 1834 thus writes "The perpetrators of the late outrages which have been "committed at Pernally are Cottiers of Panjalumcurchy in this District" (Tinnevelly) "professedly "having the protection and countenance of the police

"Police officer of Ramnad: If the peace
"of that part of the Country, security of
"property and the happiness of the people
"were consulted he would be deprived of a
"Power which he has too long exercised
"to the oppression of thousands. For the
"substantiation of this impeachment I beg
"to refer you to your own Police returns
"since the Police authority was vested in
"the Managers hands, and his conduct
"on a very late occasion in a dispute
"between himself and the Zemindar of
"Shevagungah". In the concluding portion
of the first Paragraph of the same letter
the Acting Collector of Tinnevelly who had
also been some time in this District
states his belief that "the cause of the
"quarrel is any other than that of the land
"in question".

9 - - - - At the period of ousting the
people of Elliapoorum no extra Sibbundy
appears to have been thought absolutely
necessary and certainly within the last
20 years there was never a time when

any

any augmentation of the Police establish-
=ment on this account was less required
than at present - But to make the necessity
still less - the land in dispute has been ordered
to remain perfectly undisturbed as to possession
it will therefore remain under the authority
of the Ramnad Zemindar until the final
Decree or further orders are passed - If
you are of opinion that such an arrangement
would be still more conducive to the
maintenance of the Peace the land shall
be kept with its present occupants
and Cultivators under the immediate ma-
=nagement and surveillance of this Court,
or I shall be happy and prepared to consider
any other wholesome plan, for the vigorous
maintenance of good order which you may
be pleased to propose.

10 With respect to the renewed
opening of the case by this Court I feel
assured that after a perusal of this
letter and Extract from my Diary of the
11th Instant and all the proceedings in your
possession

Possessions which may be connected therewith you will be inclined to agree with me that the Case has never been closed since the year 1819 when the dispute is supposed to have commenced; but that I have taken a most important step towards its final adjustment which would have been better had it taken place 3 years back - In support of this opinion I will state that the Decision or arrangement proposed by the Punchayets award in 1822, though sanctioned, confirmed and ordered to be carried into immediate execution by the Principal Collector of Madura was productive of no good whatever until it was finally set aside by the Board of Revenue in their endorsement upon a petition (No. 254 of 1833) from the Zemindar of Ettyapoorum - Also your letter to the Collector of Tinnevelly of the 6th March 1834 suggesting a process or arrangement by which an appeal would lie to the Zillah Adalut; and even the

Decisi

3 Decree itself of the 23rd August 1834 did not appear final on account of your letters to the Collector of Tinnevelly of the 3rd & 22nd of the October following. The determination too of the Ellaporrum Zemindar, who evinced his intention to appeal against that decision within one month after its passing, and after being twice rejected by this Court, to have his case looked into or reexamined, and the consequent instructions & orders of the Higher Court on his appeal against such rejection furnish sufficient proof of the case never having been finally adjusted.

11 — I have thus written at some length, perhaps tediously, to point out, that whilst I am very far from being indifferent to the maintenance of the peace in Pernally and on the border in dispute, I have deemed it but justice to myself and to the party who it seems to be hinted are likely to disturb its present comparative preservation to declare that I do not apprehend the least

least disturbance from my proceedings of the 11th Instant, because I have passed no decree, given no order that can in any way affect the present possessors, have not caused the occupancy in any way to be disturbed, or pronounced any former order or decision unjust; but merely in accordance with the instructions and orders of the higher Courts and authorities pronounced, for ample reasons given, the Karrarnamah or agreement taken by the Collector of Tinnevelly from the [illegible] of the Ettiapoorum Zemindar to be no legal bond on the part of the Zemindar, and therefore insufficient for any sole arbitrator to pass any final decision; and have shown that land situated north or south of the stated 5 Poros was not particularly specified or claimed or even asked for in the Petition of the Zemindar of Ramnad, though awarded in the Decree passed in his favor on the 23d August 1824 - But whilst the Zemindar of Ettiapoorum is charged with exhibiting unbecoming & contumacious conduct by his

21

inflexible adherence to the Punchayet's decision of 1822, which however he willingly waived and "expressed his readiness to have the boundary "dispute therein alluded to settled by the European "Authorities of the Districts" as stated in the letter of the Tinnevelly Collector dated 10th of May 1834 I feel free to confess that I consider it a serious detriment to the claim and cause of the Ramnadhapooreans, almost amounting to a disproof of their stated right & title, or a proof of some material concealment or latent injustice on their part, and in no way creditable to the Ramnad Zemindar himself, that throughout the last three years, since the period he was called upon by this Court to give an answer to the Plaint in 176 of 1836, he should have exhibited such a contumacious determination to prevent, by every means in his power the case being reinvestigated, by showing so firm a resolve that it shall not at all hazards of protracted bickering and confusion be ever entertained by this Court even though so ordered by higher Authority.

17. I have both in my Diary and
this letter treated the subject with fearless
prolixity in order to prevent as far as possible
misconstruction on any point or portion thereof
on the part of those concerned or their Agents,
but if after all that has been above
written as well as in the Extract from my
Proceedings of the 11th Instant (Copy of which
I have the honor herewith to forward) you
should be of opinion that there really does
exist a necessity for a reference to Govern-
-ment to sanction the organization of any
extra force for the maintenance of the peace
in the vicinity of the disputed border, I
trust you will be pleased to forward with
such reference, a Copy of this communication
and also of the accompanying extract from
my Diary as demonstrations of a total
disclaim on my part of any participation
in similar views of such urged necessity—
The Original Correspondence which accom-
-panied your letter of the 11th August
last

last is herewith returned.

Madura Zillah Court 28th November 1839

I have the honor to be,
Sir
Your most obedient Servant

[signature]
Acting Judge

Dispatched 4th Decr
Recd 6th

Compared
W. Johnson

From the Actin
Judge of Madura
28th November 1830

Extract from the proceedings of the Court of Adalut Zillah Madura under date the 11th November 1839.

O S No 167 of 1836.

In the Extract from the proceedings of the Court of Sudr Adalut under date the 15th of January 1838 it is stated that this Court was directed to revive the original Suit No 167 of 1836 which had been dismissed without any decision being passed thereon or sufficient reason given for such dismissal. The case was however again dismissed, or order passed that it was to be considered as finally at rest, without any Decree having been passed to that effect and without even reviving the rejected Suit.

2 On the 23rd of March 1839 the Vakeel for the Plaintiff in the above Suit laid the whole matter before the Court of Sudr Adalut; "the Petitioner referring to his "former Petitions No 193 & 240 of 1837 com-"plains that the orders passed by the Court "of Sudr Adalut under date the 15th January 1838

"1838 have not been conformed to by the
"Zillah Court of Madura but that on the
"contrary, that Court, without reviving the
"Suit as it was instructed to do has
"summarily dismissed the Petitioner's claim
"and declared the dispute is to be considered
"finally at rest". The Petitioner prays
"the Court of Sudr Adalut to issue a Precept
"to the Zillah Court of Madura requiring it to
"revive the Suit No. 167 of 1836 and pass a
"regular decision thereon".

3 — In the 3d & 4th Paras of the Extract
from the proceedings of the Sudr Adalut under
date the 6th of July 1839 (in which the above
Extract forms the first & second Paras) "the
"Court of Sudr Adalut observe that the orders
"conveyed in their proceedings under date the
"15th of January 1838 appear to have been
"misunderstood; and that at all events they
"have not been conformed to. Those orders
"were to the effect that as the Arbitration
"by the Collector was a private one and
"the decision consequently not passed under
"any provision of the Regulations, the

Petitioner

"Petitioner was entitled to a compliance with
"the prayer of his petition for the revival
"of the Suit but that in the first instance
"the Zillah Court should confine itself to the
"question of the validity of the award and
"that unless it were proved that the Petitioner's
"consent to refer the matter to the Arbitration
"was not previously granted or that the
"award involves matter not expressly
"referred by the mutual consent of both
"parties to the Decision of the Arbitrator,
"the Zillah Court could not enter on the merits
"&c."

4 ---- In the 5th & 6th Paras of the said Extract
their Court were pleased to state that "the object
"of the Court of Sudr Adalut in issuing that
"order was, that in the event of the validity of
"the award in respect of the two points above
"indicated being satisfactorily established a
"Decree should be passed declaring the said
"Award to be valid, without any reference to the
"merits of the cause — but it appears that
"in fact the Suit has <u>not</u> been revived, and
"that no Decree of the Court has been passed

"The Court of Sudr Udalut resolve therefore
"to direct the Provincial Court in the Southern
"Division to instruct the Zillah Judge of Madura
"to revive the Suit with the view of deter-
"=mining the validity or otherwise of the
"award of the Arbitrator and should that
"award be pronounced invalid and therefore
"set aside, to proceed in that case to try
"and determine the claim of the Petitioner
"on its' merits."

5 - It clearly appeared then from the above instructions that it was the duty of this Court after having revived the O.S. No. 167 of 1836 to confine itself in the first instance to determine the validity or otherwise of the said award which was to be effected by the ascertainment of two Points viz.

1st Whether the Parties themselves had agreed to abide by the Decision of the Principal Collector of Madura to whose sole umpirage they had mutually agreed to refer the matter in dispute.

2nd Whether such Decree or award
"involved matter not expressly referred

"by the mutual consent of the parties to the "decision of the Arbitrator".

The instructions of the Higher Court were to the effect that if the first point were established in the affirmative, and the second point in the negative, this Court could not enter on the merits of the case but should pass a Decree pronouncing the said award valid but that if otherwise that award should be set aside and the cause tried and decided upon its merits.

6º. - - - With respect to the 1st point the Vakeel of the Elliapoorum Zemindar does certainly appear to have signed an agreement drawn up in the Cutchery of the Collector of Tinnevelly to abide by the decision of the Principal Collector of Madura, but it was not duly attested as it ought to have been and ~~attested been~~ nor did the Zemindar ever directly or indirectly himself agree to abide by such decision or at any time specially authorize his Vakeel to give such agreement but merely gave authority to him to answer any question and to agree to any plan+ for the settlement of the dispute which should be put, made or

+ Plan [illegible] Marzum a way, path, road, means, mode, manner, method, plan &c

or proposed by the Collector of Tinnevelly; Neither the Takeeds from the Collector of Tinnevelly dated 20th & 27th of June 1834 & 4th of the July following directing that a Vakeel be sent to his Cutchery forthwith to treat on the subject in dispute nor the Vakalutnamah to the said Vakeel executed by the Zemindar of Ettiapooram contained the most distant allusion to the name, title or sole Arbitratorship of the Principal Collector of Madura. On the 23d of March 1833 the Tinnevelly Collector sent a Takeed to the Ettiapooram Zemindar that the late Punchayets Decree not being clearly given or written it appeared the best plan to appoint as Members of a new Punchayet the Sheristadars of the two Zillahs which arrangement had met with the concurrence of the Zemindar of Ramnad & therefore the Collector wished to know whether the Zemindar of Ettiapooram also agreed to the same, if he did, then to make known the names of the Members chosen by him to act on his behalf

On the 1st of August 1833 the

Collector

Collector again wrote to the Zemindar to the 51
effect that a communication had been received
from the Board of Revenue saying that if he
(the Zemindar) would settle the dispute amicably
well; but if otherwise by wishing the same to be
examined and determined on its merits the
Head Assistants of the two Zillahs would pre-
-pare to settle the same by personally inspect
-ing the lands in dispute. If therefore he
should agree to this plan then to send his duly
authorised Vakeel to give a Muchilka or agree
-ment to consent to the same, for until the
completion of such settlement the land would
not be put into the possession of either party.
On the 28th of April 1834 it was proposed
that the Acting Collector himself should attend
and settle the dispute if such should be agree-
-able to the Zemindar of Ettiapooram and again
the Collector of Tinnevelly wrote on the 20th & 27th
of June & 4th of July to send a trustworthy &
duly authorised Vakeel to answer questions &c &c.
How then was it possible for the Zemindar even
for an instant to imagine that it was after
all

all the above the determination of the Collector of Tinnevelly to annul each and all of the former proposals for which 2 Vakeels had been sent to him and to bind the Zemindar to abide by a totally different arrangement without having previously obtained his assent or without the slightest reference to his wishes upon the subject.

7. To point out how little prepared must have been the Zemindar of Ettiapooram for such a consummation I will give the letter last mentioned. In that dated the 4th of July 1834 to Ettapa Naik Zemindar of Ettiapooram the Collector of Tinnevelly stated thus; "as it is necessary with regard to the boundary dispute between the Mavelly oday Village in your Zemin=dary and the Village of Pernally in the District of Ramnaud that some person on your behalf should answer the questions I have to put. two orders were sent to you under date the 20th & 27th June desiring you to depute your trustworthy Vakeel with a power of attorney duly executed according to the rules laid down in the Regulations. In your Arzee

dated

D. Works

பிரதி.

தமிழ்நாடு ஆவணக் காப்பகம்.

(ஆராய்ச்சிக் கூடம்)

ஆவணங்களுக்கான கோரிக்கை.

ஏட்டின் விவரம்.

தொகுதி எண். / அ.ஆ./வ.ந. எண்.	ஏட்டின் எண்.	துறை.
Madras	Collected	
Works	8907	

தேதி : 16. 78 கையொப்பம்.

குறி பு.—(1) ஒரே கோரிக்கையில் ஒன்றுக்கு மேற்பட்ட துறைகளோடு தொடர்புள்ள ஆவணங்களைச் சேர்க்கக்கூடாது.

(2) கோரிக்கை இரட்டைப்படிகளாக எழுதப்படவேண்டும்.

dated the 29th of the said Month in answer to
the above instead of giving a fair & straight
forward answer you have sent a most ambigu
-ous reply conveying a double meaning and
stating that you have nominated and sent
a Vakeel with a power of attorney to answer
the questions I may put to him on the subject
of the settlement lately made regarding the
boundary dispute. The Vakalutnamah itself
also contains the same matter; I was very
much surprised to see the above. It is now
absolutely necessary that you should depute
a Vakeel fully authorised to answer the
questions I have to put to him and to give
his consent to the mode I may propose to
settle the boundary dispute. You are therefore
hereby required on receipt of this to send me your
trustworthy Vakeel for the above purpose with
full authority given to him so that all his actions
may be considered as if they had been done
by you in person and so that he may not
with respect to any question I may put to
him

him or to any mode of procedure I may propose require your further opinion; and that none of the above term be omitted in the power of attorney; You are further required to send me an Arzee giving your consent to what I may do on the subject. An Endorsement from the Board of Revenue dated 9th June 1834 on your Petition dated the 18th April 1833 regarding the boundary dispute is herewith sent to you; from this you will perceive that the Board are dissatisfied with your conduct regarding the boundary dispute and that they have resolved that the Punchayets Decree lately passed regarding the boundary dispute must not be enforced. As your Arzee dated 29th of June was delivered to me 6 days afterwards by your Vakeel I entertain some doubt."

8. The above, which is as true a translation from the Tamil as can be made was sent on the of July 1834 and the Collector in it refers to the endorsement of the Board of Revenue, on a petition presented by the Zemindar of

Ettiapoorum, which was subjoined to the Board's letter of the same date by which it plainly appears that, according to the orders of Government dated 12^d of July 1833 and the instructions of the Board 11 Months afterwards the course subsequently adopted to obtain the indirect assent of the Zemindar of Ettiapoorum or rather the measure determined on for binding him to abide by the award of the sole Arbitrator, was far from the correct one; But setting aside the deviation in form from the orders of the higher Authorities, it is serious to reflect what illfeeling disorder and bloodshed might not in all probability have been avoided either by a stricter adherence to the spirit of those orders, or by a plain exposition to the Zemindar of Ettiapooram beforehand of the course which it was considered best to pursue in order to settle the disputed boundary question that his unqualified assent or dissent might thereby be irrevocably procured to such sole umpirage. The determination of the Collector of Tinnevelly

was

was beyond a doubt made with the best intentions, since it is stated in his order to the Zemindar of the 11th of July 1834 "I believe that his" (the Principal Collector of Madura) "determining the case will be attended with greater benefit to you than my settling it": and again "This is the best mode in my opinion and if you do not avail yourself of it you will never derive any good". Still it was not therefore the more binding upon the Zemindar of Ettiapoorum.

9. I will now proceed to state my opinion as to the legal obligation on the part of the Ettiapooram Zemindar to abide by the not specially authorised act of his Vakeel. A duly constituted Agent be he styled Advocate, Attorney, Vakeel or pleader is bound either by oath, or some such equivalent obligation to do his duty; a private Agent transacting business with a public Functionary on public matters is by no means absolved from any such obligation. If he should

he

be guilty of such it is not binding on his client and even tho' the Agent should be proved perfectly innocent of being a party to to any such injury the act is not the more binding. It is so between Kingdom & Kingdom, State & State & it holds equally good between party & party. It cannot therefore be considered correct to take any important documentary writing from such Vakeel so vitally affecting the interests of the client particularly when such document or Agreement were detrimental to the interests of the party which such attorney was bound to serve, support, uphold and improve. Wherefore whether the Vakeel for the Ettiapooram Zemindar willingly or otherwise gave the said Agreement to the Collector of Tinnevelly as it was without the Zemindars prior or subsequent special assent he of Ettiapooram could not be legally bound to abide by the result –

The examination of Witnesses as to whether

the

the Agreement were taken from the said Vakeel by force or not appears to be altogether superfluous & unnecessary as sufficient evidence is discoverable on record that the subject of abiding by the sole Arbitratorship of the Principal Collector of Madura was never even broached to the Zemindar nor was the Zemindar's Consent thereto ever asked or given, it was in no way directly solicited or obtained. If the Vakeel had power of his own free will to make over the case of his client he could also of course make over all the property of the Zemindar, but as before shown unless specially authorized he is only empowered to a certain extent. he is merely an Agent or Medium of action on behalf of his client and possesses no authority whatever by such position to act against his employer or in any way to the detriment of his interests; But at the time of writing the Takeed of the 4 of July 1834 there was already a Vakeel for the Ellicpooram Zemin=dar before the Collector of Tinnevelly, and had the

the new Vakeel been vested with such extraordinary powers as to render in the opinion of the Collector, any reference whatever to the Zemindar on so important a point perfectly unnecessary he & he only appeared to be a proper person to conduct the enquiry before the Principal Collector of Madura, But in acquainting the Zemindar of what had happened the Zemindar was himself ordered by the Collector of Tinnevelly to attend at the place of conference with all the accounts, vouchers, documents &c. he possessed in support of his claim. A duly authorised Vakeel particularly the one who with such apparent extraordinary powers had signed the important Karrarnamah would surely have been sufficient, but such order would tend to show that the Collector of Tinnevelly did not consider him sufficiently authorised for any such purpose, and therefore it would have been well to have obtained a special sanction of, or perfect acquiescence in, the act of his attorney whose authority from that moment

seemed

seemed to have ceased, either personally, verbally or in writing from the Zemindar of Ettiapooram even if no orders from higher Authority had been received upon the subject, but in their letter of the 9th of June 1834 to the Principal Collector of Madura (Copy of which was sent to the Collector of Tinnevelly) the Board of Revenue were pleased to refer to the orders of Government dated 12th July 1833 which were to the effect "that if the Zemindars were willing to abide "by the Arbitration of either of the Collectors "of Madura & Tinnevelly and to enter into a "bond to that effect it would seem to be "most expedient to bring the dispute to "a settlement in that way, the Board "direct that you will in the first instance "make an application to them to such "effect". And again "The Collector himself "is not competent to decide the case "except upon the mutual consent in writing "of the litigating parties". So that even if the Vakeel had most willingly given the Rarzenamah to the Collector of Tinnevelly,

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and the Zemindar of Ettiapooram had verbally assented thro' his Vakeel to the measure such assent & such Razeenamah to the Collector of Tinnevelly were not sufficient authority to the Principal Collector of Madura to pass a Decision upon a case so materially affecting the interests of the said Zemindar, and to which decision therefore he could not legally be bound to conform.

10. The matter was throughout very different with the Zemindar of Ramnad; On his behalf were two duly authorised Vakeels and they had obtained the sign manual of the Zemindar himself expressly stating his willingness to abide by any Decision passed by the Principal Collector of Madura as sole Arbitrator and it is much to be regretted that a similar course had not been adopted with respect to the Zemindar of Ettiapooram at least on his arrival at the place of conference if such had been neglected at any earlier period. Moreover if the Zemindar of Ramnad had himself considered that he & Ettiapooram were bound to abide by the decision of the Principal Collector of Madura as sole

Arbitrator it is particularly doubtful whether he would have promised to resign all pretensions to the land in dispute if the latter would make oath to the truth of his statements. The Zemindar of Ramnad was not present at any period of holding the said conference nor was his presence in any way considered necessary.

11. Having thus endeavoured to show the position of each party with reference to their obligation to abide by the acts of their agents. This Court proceeds to consider the second point vizt whether the award involved matter not expressly referred by the mutual consent of the parties to the decision of the arbitrator. Without referring to the Petition of some of the Pernally people through the Huzzoor Delayet Mahomed Cassim dated stating that 500 Kurukums have been taken forcible possession of by the Zemindar of Ettiapooram, or that to the Punchayet

dated

dated stating that 3000 had been so taken I will confine myself to the last or that dated 25 Jul 1834 presented to the Principal Collector of Madura in which it is expressly stated that the disputed land to the extent of 4000 Koorukkums was east of certain stated 5 Ooranies or Ponds. The following is a translation of the said Arzy.

"When the village Pernally in the Cusbah & Magaunum of Pernally attached to the Paupaucolum Talook in this Zemindary was first brought into existence five Ponds were dug to mark the boundaries of the said village and of Codalapooram, Mavilloody & Chennoor in the Zemindary of Ettiapooram; The limits of Pernally are on the east of the Tanks & those of Bodalapooram & the other Villages on the west of the said Tanks. The Villages having been thus enjoyed for a long time the Inhabitants in the Jurisdiction of

of the Ettiapooram Zemindary usurped certain of the lands to the east of the Tanks in question in Fusly 1230 as belonging to them. There are however accounts, documents, & Witnesses to prove that the land thus usurped belongs to this Zemindary. We therefore pray that this may be examined, & the documents respecting the case that are upon record in the Huzzoor Cutchery since the assumption of the Zemindary until now may be perused, & that as the lands to the east of the Tanks abovementioned belong to this Zemindary the same may be accordingly decreed in conformity with the Dharmasastra that touches on the dispute

25 July 1834 (Signed) Streenivasiengar
" Audynarrainapilly

The land in dispute abovementioned produces a revenue of about 6000 & odd Rupees & consists of about 4000 & odd Kurukkams of Punjah land.

(Signed) Streenivasiengar
" Audynarrainapilly

Plaint filed this 25th July 1834

(Signed) J. Blackburne
Principal Collector.

On the above Plaint the first point necessary to be ascertained was whether there were really 5 Ooranies, and the result of any such enquiry would have been as mentioned in the 11th Para of the Decree of the Principal Collector of Madura dated 23d August 1834 "That "the 4 Ooranies were in good state but "tho' the spot of the last (the 5th) was "pretended to be pointed out, there remained "not the slightest vestige of it." The next thing to ascertain was whether as stated in the Petition the lands claimed were to the east of the said Ooranies. The place said to have been occupied by the 5th Pond is north of the other 4 but not northward still of the missing Oorany about 325 Kurakums of land were awarded together with the 5 Ooranies and all

east

east of them which had been also claimed by & then in possession of the Ettiapoorum Zemindar or about 2000 Kurukkums; As also about 1,890 Kuru-kkums south of the southern-most Coramy being altogether 50 per cent more than his east of the said 5 Ooranies and consequently as much again in position as was mentioned in the above Petition. The consent of either party to refer this express portion to the Arbitration of the Principal Collector of Madura was never obtained by the Collector of either District.

12. According therefore to the instructions & orders of the Court of Sudr Udalut to this Court & those of the Board of Revenue to the Collectors of Madura & Tinnevelly as it appears that the Zemindar of Ettiapoorum did not at any time himself agree or authorise his Vakeel to give any such express

Agreement to abide by the Decision of
the Principal Collector of Madura
as sole Arbitrator in the matter in dispute
& as in the Petition land situated only to the
east of 5 stated Ponds; was asked for
whilst lands north & south of the said
Ponds were awarded in the decree, this
Court do not consider that the Zemindar
of Ettiapooram can in any way legally be
bound to abide by such Decision & will
proceed to enter upon the merits of the
case and notices is therefore to be sent
to the Zemindar of Ramnad within 6
weeks of this date or one month after such
Notice shall have been duly served, to give
answer to the Plaint in the Original
Suit No 167 of 1836. Trusting that the
Zemindars, the head men of the villages
& the Ryots will one and all do their
utmost to preserve peace on & near
the disputed border & will not by any
reckless behaviour or disregard of the
consequence

consequences, bring down on themselves the severest penalties of the law, and with a view to give as little occasion as possible for any breach of the peace for so long a period happily maintained, by any sudden alteration of the system which has been in force for the last 3 or 4 years the Acting Judge has determined that the land in dispute shall remain as it now is kept under the authority & in the possession of the Zemindar of Ramnad until further orders from this Court.

(True Extract)

Recd 4th Decr 1839
JB

[signature]
Acting Judge

Compd.
Wm. [illegible] [illegible]
Civil [illegible]

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Memo. of letters returned to the Principal Collector of Madura which accompanied his letter of the 11th August 1839

To the Acting Collector of Tinnevelly dated 6th March 1834

Do. ---------------- 4th April

Do. 18th June with 2 English Enclosures

Vizt. 1 to the Board 15th April

1 From Do. 9th June

Do. ---------------- 4th August

Do. ---------------- 3d October

Do. 14th Do. with 1 Enclosure (Copy of decision)

Do. ---------------- 22d October

From the Collector of Tinnevelly

9th April 1834

Do. ---------------- 18th May

Do. ---------------- 11th July with one English enclosure

Do. ---------------- 7th August

Do. 30th September with 1 Tamil Enclosure

Do. 18th October with 4 Tamil Enclosures

Do. 27th October

Do. 15th November

15 Letters and Enclosures 9 -

Recd 5th Decr 1839 JS

W. Elliot

Acting Judge